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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/683,752	10/10/2003	Stephen Gold	200309332-1	5052

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EXAMINER

DILLON, SAMUEL A

ART UNIT	PAPER NUMBER
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2185

DATE MAILED: 10/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/683,752

Applicant(s)

GOLD ET AL.

Examiner

Sam Dillon

Art Unit

2185

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 10/10/03
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The instant application having Application No. 10/683,752 has a total of 20 claims pending in the application; there are 3 independent claims and 17 dependent claims, all of which are ready for examination by the examiner.

I. INFORMATION CONCERNING OATH/DECLARATION

2. The applicant's oath/declaration has been reviewed by the examiner and is found to conform to the requirements prescribed in 37 C.F.R. ' 1.63.

II. INFORMATION CONCERNING DRAWINGS

3. The applicant's drawings submitted October 10, 2003 are acceptable for examination purposes.

III. ACKNOWLEDGEMENT OF INFORMATION DISCLOSURE STATEMENT

4. The information disclosure statement (IDS) submitted on October 10, 2003 is in compliance with the provisions of 37 CFR 1.97. As required by M.P.E.P. ' 609 (C), the applicant's submission of the submitted IDS is acknowledged by the examiner and the cited references have been considered in the examination of the claims now pending. As required by M.P.E.P. ' 609 C(2), a copy of the PTOL-1449 initialed and dated by the examiner is attached to the instant office action.

IV. OBJECTIONS TO THE APPLICATION

5. Claim 18 is objected to because of the following informalities:
- a. Claim 18 reads "*the instructions for providing a status indicator comprise which*" and should read "*the instructions for providing a status indicator comprise instructions which*".
- Appropriate correction is required.

V. REJECTIONS NOT BASED ON PRIOR ART

Claim Rejections - 35 USC ' 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:
- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
7. Claims 10 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
8. Claim 10 reads "*a scratch category for media jobs that **move to move media***". It is unclear if the applicant intends to claim media jobs that themselves move to accomplish the process of moving media, the media jobs move media or even something else entirely. For the purposes of further examination, the Examiner will interpret the claim as reading "*media jobs that **move media***".
9. Claim 20 reads "*the medium of **claim 22***", however, there is no corresponding Claim 22. For the purposes of further examination, the Examiner will interpret the claim as depending instead on Claim 17.

Claim Rejections – 35 USC ' 101

10. The following is a quotation of 35 U.S.C. 101:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

11. **Claim 1-11** rejected under 35 U.S.C. 101 because the claimed inventions are directed to non-statutory subject matter. The claimed inventions are directed towards methods that do not transform an article or physical object to a different state or thing and do not produce a tangible result. To direct the claimed inventions to statutory subject matter, the claims must be amended to include performing a physical transformation that produces a tangible result.

VI. REJECTIONS BASED ON PRIOR ART

Claim Rejections - 35 USC ' 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. **Claims 1-20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Legato et al. ("Legato NetWorker Administrator's Guide") in view of Cox et al. (US Patent Number 5,535,335).

14. As per **Claims 1, 12 and 17**, but more specifically to Claim 12, Legato disclose a system ("NetWorker Storage Management", page 37) comprising:

logic, communicatively coupled to a user interface (*NetWorker administrator interface, page 93 "NW Server Statistics"*), to determine a status for each of a plurality of media jobs associated with a media job category (*commands mminfo and nsrmm, page 93*); and

wherein said user interface is further configured to provide the status indicators (*NetWorker administrator interface, page 93 "NW Server Statistics"*).

Legato does not disclose receiving a service level objective for a media job category and determining a status indicator for the media job category based on the service level objective and the status for each of the plurality of media jobs; and wherein said user interface is further configured to provide the status indicator for the media job category.

Cox discloses a service level objective (*column 2 lines 30-32*) for a media job category (*aggregate resource, column 2 lines 9-11*); determining a status indicator () for the media job category based on the service level objective and the status for each of the plurality of media jobs (*column 2 lines 25-48*).

Legato and Cox are analogous art in that they both deal with a collection of items each having a status and those statuses being queried. At the time of the invention, it would have been obvious a person having ordinary skill in the art to modify Legato's device management system to support Cox's aggregate status reporting.

The motivation for doing so, as taught by Cox, would have been to provide an accurate assessment of the operability status of the aggregate resource (*Cox, column 4 lines 1-8*). Therefore, it would have been obvious to combine Legato's system with

Cox's reporting for the benefit of a providing an accurate assessment of the system status, to obtain the invention of Claims 1-12.

15. As per **Claim 2, 11 and 20**, but more specifically to Claim 2, Legato and Cox disclose the method of Claim 1, wherein

determining a status comprises determining whether each of the plurality of media jobs completed within a due time for each respective media job (*Legato, if the job completed then the status will not be "susp", page 141*).

16. As per **Claim 3**, Legato and Cox disclose the method of Claim 1, wherein receiving a service level objective comprises receiving a first desired percentage of media jobs to be completed within a due time associated with the media job (*Cox, 2nd parameter, column 2 lines 38-48*).

17. As per **Claim 4, 15-16 and 18**, but more specifically to Claim 4, Legato and Cox disclose the method of Claim 3, wherein providing a status indicator comprises:

calculating a calculated percentage of the plurality of media jobs that were completed within the due time associated with the media job (*Cox, column 2 lines 38-48*);

if the calculated percentage is less than the first desired percentage, providing a critical status indicator (*Cox, "severely degraded", column 2 line 45*).

18. As per **Claim 5**, Legato and Cox disclose the method of Claim 3, further comprising

receiving a second desired percentage of media jobs to be completed within the due time associated with the media job, the second desired

percentage greater than the first desired percentage (*1st parameter, column 2 lines 38-48*).

19. As per Claim 6, Legato and Cox disclose the method of Claim 5, wherein providing a status indicator comprises:

calculating a calculated percentage of the plurality of media jobs that completed within the due time associated with the media job (*Cox, value of underlying real resource elements found in an unsatisfactory state, column 2 lines 38-48*);

if the calculated percentage is less than the first desired percentage, providing a critical status indicator (*Cox, "severely degraded", column 2 lines 38-48*);

if the calculated percentage is greater than the first desired percentage and less than the second desired percentage, providing a warning status indicator (*Cox, "degraded", column 2 lines 38-48*); and

if the calculated percentage is greater than the second desired percentage, providing an OK status indicator (*Cox, not degraded, column 2 lines 38-48*).

20. As per Claims 7 and 19, but more specifically to Claim 7, Legato and Cox disclose the method of Claim 1, further comprising:

receiving a second service level objective comprising a desired percentage of media to have a known location (*Legato, not in progress / inpro, page 140*);

calculating a calculated percentage of media of a total number of media having a known location (*Cox, column 2 lines 38-48*); and

providing a second status indicator for media having a known location based on the calculated percentage and the second service level objective (*Cox, column 2 lines 38-48*).

21. As per **Claim 8**, Legato and Cox disclose the method of Claim 1, wherein providing a status indicator comprises

providing one of a critical status, a warning status, and an OK status (*Cox, column 2 lines 38-48*).

22. As per **Claims 9-10 and 14**, but more specifically to Claim 9, Legato and Cox disclose the method of Claim 1, wherein

the media job category comprises one of a media movement category, a device load category (*Legato, each status is of a device that had data loaded or attempted to load on it, page 140 paragraph 1*), and a scratch media initialization category.

23. As per **Claim 13**, Legato and Cox disclose the system of Claim 12, further comprising:

media job information comprising a plurality of media jobs associated with the media job category, each of the plurality of media jobs having a due time (*Legato, save sets, page 140*); and

wherein said logic is to determine the status using said media job information (*Legato, status is determined based on information from save sets, page 140*).

VII. RELEVANT ART CITED BY THE EXAMINER

24. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- b. Tanenbaum ("*Structured Computer Organization*") teaches that hardware and software are logically equivalent.
- c. Oliver (*US Patent Publication 2005/0021524 A1*) discloses a media management system with a centralized interface.

VIII. CLOSING COMMENTS

a. STATUS OF CLAIMS IN THE APPLICATION

25. The following is a summary of the treatment and status of all claims in the application as recommended by M.P.E.P. '707.07(i):

a(1). CLAIMS REJECTED IN THE APPLICATION

26. Per the instant office action, Claims 1-20 have received a first action on the merits and are subject of a first action non-final.

b. DIRECTION OF FUTURE CORRESPONDENCES

27. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sam Dillon whose telephone number is 571-272-8010. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sanjiv Shah can be reached on 571-272-4098. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

IMPORTANT NOTE

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



SAD

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